

# HOUSE . . . . . No. 4238

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## The Commonwealth of Massachusetts

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By Mr. Wagner of Chicopee, for the committee on Transportation, on Senate, Nos. 1901 and 1929, a Bill relative to safe driving (House, No. 4238). September 16, 2009.

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### An Act RELATIVE TO SAFE DRIVING.

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FOR THE COMMITTEE:

NAME:	DISTRICT/ADDRESS:
Joseph F. Wagner	8th Hampden

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## An Act RELATIVE TO SAFE DRIVING.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

Said section 8 is hereby amended by inserting at the end of the 14<sup>th</sup> paragraph the following:-

Notwithstanding any provision of the first paragraph of this section, an applicant for the renewal of a license age seventy-five or older must pass an examination, to be developed by the registrar in consultation with the medical advisory board established in section 8C of said chapter 90, to assess cognitive and physical ability and any other condition that might prevent such applicant from operating a motor vehicle safely.

Any operator age seventy-five or older, whose license to operate a motor vehicle has been suspended or revoked by the registrar pursuant to chapter 90 or section 113B of chapter 175, shall be entitled to appeal said suspension or revocation to the registrar. The registrar shall determine the physical and mental capacity of the driver to operate a motor vehicle and shall issue findings to support his determinations. The registrar may refer the matter to the medical advisory board for an advisory opinion if a medical opinion is required to adjudicate the appeal.

If an operator age seventy-five or older has failed the examination for continued licensure as provided for in this section, and the registrar determines that the suspension or revocation of the license shall be upheld, the operator may petition the registrar for a road day, as prescribed by the registrar, to demonstrate the requisite driving skills necessary for continued licensure. Unless the registrar determines that permitting the driver to take a road test would present a safety risk to the general public, the driver shall be permitted a road test to demonstrate continued proficiency operating a motor vehicle. Based on the entirety of the record, the registrar shall make a determination as to whether continued licensure is warranted. The registrar's decision shall be conclusive and final upon an issuance of findings and determinations.

**SECTION 2.** Chapter 90 of the General Laws is hereby amended by inserting after Section 22H the following new section:-

25 Section 22I. For the purposes of this section the following words shall, unless the context clearly  
26 requires otherwise, have the following meanings:-

27 “Physician”, a person authorized or licensed to practice medicine or osteopathy in accordance  
28 with the provisions of section two of chapter one hundred and twelve.

29 If a physician or law enforcement officer has good cause to believe that an operator is not  
30 physically or medically capable to safely operate a motor vehicle, that person may make a report  
31 to the registrar, requesting medical evaluation, as the registrar may prescribe. Said report must  
32 state that the person reasonably and in good faith believes the driver cannot safely operate a  
33 motor vehicle and must be based upon personal observation, physical evidence, or an  
34 investigation by a law enforcement officer, which shall be described in the report.

35 Upon receipt of said report, the registrar shall immediately suspend license of said operator. The  
36 registrar shall conduct a review within thirty days to determine the operator’s capacity for  
37 continued licensure to operate a motor vehicle.

38 A physician or law enforcement officer making a report to the registrar in good faith, pursuant to  
39 this section, shall be immune from civil liability that might otherwise result from making the  
40 report. All reports made and all medical records reviewed and maintained by the registry under  
41 this section shall be kept confidential except upon order of a court of competent jurisdiction.

42 The registrar shall provide health care professionals and law enforcement officers with  
43 information about the procedures authorized in this section.

44 The registrar shall develop a public outreach campaign to provide information to drivers on safe  
45 driving practices, techniques for self-testing, and local transportation alternatives.

46 **SECTION 3.** Section 113B of Chapter 175 of the General Laws is hereby amended by inserting  
47 at the end of the section the following paragraph:-

48 Upon receiving notification from the merit rating board that a driver has had three or more  
49 surchargeable incidents within the previous year, the registrar shall, after a hearing based solely  
50 on the accuracy of the merit rating board’s records, administer an examination, as prescribed by  
51 the registrar subject to section 8 of chapter 90, to the driver within thirty days to determine the  
52 driver’s capacity for continued licensure to operate a motor vehicle.

53 **SECTION 4.** The registrar of motor vehicles shall implement the provisions of Section 1 no later than  
54 ninety days from the effective date of this act.